

**THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION**

JANE ROE, et al.	)	Case No. 1:22-cv-00376
	)	
Plaintiffs,	)	Judge Jeffrey P. Hopkins
	)	
v.	)	Magistrate Judge Karen L. Litkovitz
	)	
UNIVERSITY OF CINCINNATI,	)	
	)	
Defendant.	)	

**DEFENDANT UNIVERSITY OF CINCINNATI'S  
NOTICE OF SUPPLEMENTAL AUTHORITY**

Defendant University of Cincinnati (“UC”) respectfully submits the following supplemental authority in support of its Motion to Dismiss Plaintiffs’ Amended Complaint (Doc. 18) pursuant to Fed. R. Civ. P. 12(b)(6) and states as follows:

1. On February 15, 2023, the United States Court of Appeals for the Sixth Circuit issued a published decision affirming the Southern District of Ohio’s Rule 12(b)(6) dismissal of Title IX “retaliation” claims in *Garrett, et al. v. The Ohio State University*, Case Nos. 21-3972, 21-3974, 21-3982, 21-4070, and 21-4128, a copy of which is attached hereto as **Exhibit A**.

2. The Sixth Circuit held in *Garrett* that allegations asserting certain categories of individuals (employees, faculty, staff, former employees, friends and/or benefactors) retaliated does not state a retaliation claim because there is no individual or respondeat superior liability under Title IX. *Id.* at 9 (citing *Bose v. Bea*, 947 F.3d 983, 993 (6th Cir. 2020)).

3. The Sixth also held that “we have not recognized a claim for deliberate indifference to retaliation” under Title IX. *Id.* (citing *Bose*, 947 F.3d at 993; *Gebser v. Lago Vista Indep. Sch. Dist.*, 524 U.S. 274, 290-291 (1998)).

4. The Sixth Circuit additionally held that, “even if we were to [recognize a claim for deliberate indifference to retaliation], plaintiffs have not adequately pleaded that anyone within Ohio State, with power to stop the alleged retaliatory actions, had any knowledge of them.” *Id.* (citing *Bose*, 947 F.3d at 993; *Gebser*, 524 U.S. at 290).

Accordingly, UC respectfully submits the *Garrett* decision as supplemental authority, which further supports its Motion to Dismiss Plaintiffs’ Amended Complaint (Doc. 18).

Dated: February 20, 2023

Respectfully submitted,

DAVE YOST  
ATTORNEY GENERAL OF OHIO

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**CERTIFICATE OF SERVICE**

I certify that a copy of the foregoing was filed electronically on February 20, 2023. Notice was sent by operation of the Court's electronic filing system to all other counsel who have entered an appearance and any parties who have entered an appearance through counsel. The parties may access this filing through the Court's ECF system.

/s/ Michael H. Carpenter

Michael H. Carpenter

One of The Attorneys for  
Defendant University of Cincinnati